

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jennifer Rainey,)	
)	C/A No. 4:17-2407-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Andrew Saul, Commissioner of Social)	
Security,)	
)	
Defendant.)	
_____)	

On September 8, 2017, Plaintiff Jennifer Rainey brought this action to obtain judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's application for Social Security disability and Supplemental Security Income. See 42 U.S.C. § 405(g). On February 13, 2019, the court remanded the cause pursuant to sentence four of § 405(g) for further administrative proceedings. By order filed June 12, 2019, the court awarded \$3,872.97 (attorney's fees in the amount of \$3,850.91 plus expenses in the amount of \$22.06) to Plaintiff's counsel pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

This matter is before the court on Plaintiff's motion for attorney's fees filed December 21, 2020. Plaintiff moves for an order awarding an attorney's fee of \$24,965.25 under the Social Security Act, 42 U.S.C. § 406(b).¹ On January 7, 2021, the Commissioner filed a response informing the court that he has no objection to Plaintiff's motion for fees. The Commissioner notes, however, that the fees previously awarded under § 2412 should be remitted to Plaintiff by counsel. See Gisbrecht v.

² The fee requested constitutes 25% of the past due benefits awarded to Plaintiff, in accordance with the fee agreement between Plaintiff and counsel and as permitted by 42 U.S.C. § 406(b).

Barnhart, 535 U.S. 789, 796 (2002). Counsel represents that, once the fees requested herein are approved, he will refund to Plaintiff the attorney's fee previously awarded.

Accordingly, Plaintiff's motion for fees under 42 U.S.C. § 406(b) is **granted** in the amount of \$24,965.25. Counsel for Plaintiff is directed to promptly refund to Plaintiff the previously awarded attorney's fee of \$3,850.91.

IT IS SO ORDERED.

/s/Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

January 11, 2021